

April 4, 2015

TO: Hillary for America
FROM: Marc E. Elias
RE: **Fundraising Guidelines**

I. FUNDRAISING GUIDELINES

The following rules apply to all funds solicited for Hillary for America ("HFA" or the "campaign"). If you have any questions, you are encouraged to seek advice from the campaign or its counsel. Federal law places significant limits on the amounts and sources of funds that can be raised on behalf of the campaign. Contributions raised pursuant to these limits are commonly referred to as "hard money" whereas money raised outside of these limits or from prohibited sources is commonly referred to as "soft money." Federal law strictly forbids the campaign and those acting as agents on its behalf from raising soft money. It is therefore important that your fundraising for the campaign be within the rules set forth below.

II. CONTRIBUTION LIMITS

HFA may raise funds subject to the following limits

- An individual may contribute up to \$2,700 per election. The primary and the general are separate elections for purposes of this limit.
- A donor and his or her spouse may each contribute a separate \$2,700 per election.
- An unincorporated partnership is permitted to contribute \$2,700 per election.
- A Limited Liability Company (LLC) that has chosen to be treated as a partnership for tax purposes is permitted to contribute \$2,700 per election as if it were a partnership (see above).

A multicandidate PAC registered with the Federal Election Commission may contribute \$5,000 per election. HFA must verify that the PAC enjoys multicandidate status, or else may only accept \$2,700 per election.

III. SOURCE RESTRICTIONS

HFA may accept contributions from individuals, unincorporated partnerships, and from the federal accounts of state and national party committees. There are, however, some important restrictions and limitations on who may contribute:

- **Foreign nationals.** **Foreign nationals may not contribute.** The only exception is that foreign nationals who are permanent U.S. residents (green card holders) may contribute as an individual. Before accepting a contribution from a permanent U.S. resident, the campaign generally requires some form of proof of U.S. resident status such as a photocopy of his or her green card. Contributions from a person whose citizenship cannot be ascertained should not be accepted.
- **Contributions in the name of another.** **Federal law strictly prohibits HFA from accepting contributions that are made in the name of another.** Put simply, if Person "A" wants to contribute to the campaign, the campaign can only accept that contribution from the checking account of Person "A". It is unlawful for Person "A" to give the money to Person "B" and have Person "B" make the contribution in Person "B's" name. Similarly, it is unlawful for Company C to give Employee D funds in any form that Employee D understands must be used to make a contribution to the campaign. Company C may not reimburse Employee D for contributions made to HFA, nor may Company C give Employee D a bonus of any kind with the understanding that those funds must be used to make a contribution to HFA.
- **Government contractors.** **HFA is prohibited from accepting contributions from "federal contractors."** While this prohibition does not prevent individuals who simply work for companies that are federal contractors from making contributions from personal funds, it does prohibit persons who themselves contract with the United States or any federal agency from making contributions.
- **Corporate and Union contributions.** **Corporations, including LLCs that have chosen to be treated as corporations for tax purposes, are not permitted to contribute to HFA.** The campaign may not accept contributions directly from any corporation (including nonprofits) or union. In addition to prohibiting direct contributions from corporations, the Federal Election Commission (FEC) prohibits corporations and unions from "facilitating" the making of contributions. While the rules regarding "facilitation" are quite complex, the campaign cannot engage in fundraising activity that involves the use of corporate and/or labor facilities and resources without prior review and approval from its attorneys.

- **National Banks and Corporations Chartered by Act of Congress.** HFA may not accept any contribution from a national bank, or any contribution from any corporation organized by authority of any law of Congress such as a federally chartered savings and loan association.

IV. SUPER PACs

A Super PAC is a political committee that is legally permitted to accept contributions without limits from individuals, corporations, labor unions, and most other sources, but may not use those funds to make contributions to or coordinated expenditures with campaigns. Instead, a Super PAC must make its expenditures independently of any candidate committee or party committee.

While a Super PAC is permitted to accept contributions without limit, there are restrictions on what HFA and agents acting on its behalf may solicit for a Super PAC. Specifically, HFA and agents acting on its behalf may solicit up to only \$5,000 from individuals and other federally permissible sources for Super PACs, and may not solicit any funds from corporate or labor union treasuries or any other federally prohibited source (see preceding section).

In addition to the solicitation restriction, you also must adhere to restrictions on coordinating spending between HFA and Super PACs. If you are privy to nonpublic strategic information about HFA, you may not share that information with any Super PAC. Likewise, if you are privy to nonpublic strategic information about the Super PAC, we ask that you not share that information with HFA.

V. FORM OF CONTRIBUTIONS

Contributions to HFA can come in many different forms. Something that may not initially seem like a contribution must sometimes still be treated like one. Additionally, different restrictions sometimes apply depending on how a contribution is made.

- **Cash Contributions.** HFA can only accept cash contributions in amounts up to \$100 from permissible donors. Contributions that are larger than \$100 must be made by check or other written instrument, like a credit card pledge form.
- **Anonymous Contributions.** HFA may only accept anonymous contributions in amounts up to \$50. Accordingly, if an individual makes a contribution greater than \$50, even if it

is in cash, you must still collect his or her information for reporting purposes (as discussed below). You should always attempt to collect a contributor's information regardless of the amount.

- **Sale of Fundraising Tickets**. If you sell tickets for an HFA fundraising event or a fundraising item, the entire purchase price is considered a contribution. For example, if a person buys a \$50 ticket to a fundraising dinner, it must be treated as a \$50 contribution regardless of the actual cost of the event.

VI. HOSTING A FUNDRAISER

- **In-Home Events**. An individual may spend up to \$1000 on food, beverages, and invitations while hosting a HFA fundraising event in his or her own home. This \$1,000 does not count against the individual's contribution limit and is not disclosed to the FEC, although the individual should keep records of these expenses. The individual may not be reimbursed for these expenses. Moreover, the allowance does not extend to other sorts of expenses, such as entertainment. A spouse may separately spend up to \$1,000 in connection with the same event without it counting against the spouse's contribution limit.

Note: Such events may also be arranged in community rooms or church space, provided the space is generally available for non-commercial purposes without regard to political affiliation, and only a nominal fee (if any) is charged.

- **Vendor Food and Beverage Discounts**. A fundraiser organizing an event may also obtain discounts from vendors on foods or beverages (including corporate vendors) beyond those that the vendor might normally give up to \$1,000. However, the vendor may not charge below cost and the discount applies only to the sale of food and beverages.
- **Use of Corporate Resources**. As mentioned above, individuals are generally prohibited from using corporate resources, including conference rooms, office supplies, and the time of corporate employees, in support of a fundraiser. However, such resources may be used if the fair market value is paid either by the campaign or a source that may lawfully contribute to HFA, in which case the amount paid would be treated as an in-kind contribution subject to the \$2,700 per election contribution limit. **Note that the payment for the use of such resources must be made in advance of the use.** Given the

complexities of these rules, you must consult with HFA before using corporate resources to organize, promote, or host your event.

VII. TRAVEL

- **Travel**. When traveling as a volunteer *on behalf of HFA*, as a surrogate or otherwise, you may spend only up to \$1,000 in transportation expenses without making an in-kind contribution. When traveling on your own accord to, for example, attend an HFA event, there is no limit on what you may spend on your own travel. However, if you pay for the travel expenses of others while they are volunteering or traveling on behalf of HFA, you could be making an in-kind contribution.
- **Food and Lodging**. Food and lodging expenses you pay for when traveling are not considered contributions to HFA, no matter the amount. As a result, you may spend as a volunteer as much money as you like on your own hotels and restaurants without making in-kind contributions. However, if you pay for the food and lodging expenses of others while they are volunteering on behalf of HFA, you could be making an in-kind contribution.

VIII. REPORTING REQUIREMENTS

In addition to source, form, and contribution limits, HFA is subject to numerous reporting requirements, including the following:

- The FEC requires HFA to file regular reports that detail the name, address, occupation and employer for contributors who give more than \$200 in an election cycle. It is, therefore, important that the campaign undertakes its "best efforts" to obtain this information and that agents of the campaign ask donors to complete a donation card when soliciting contributions.
- The FEC also requires that HFA deposit all contributions it has received within **ten days of receipt**. Therefore, all agents should transmit any contributions promptly, so that the campaign can deposit them within the ten day period.

IV. CONCLUSION

As you can see, the rules regarding fundraising can be complex. For that reason, it is strongly recommended that, if you encounter any situation in which you are uncertain as to what rules

apply, you seek further guidance from the campaign. In addition, there are a number of additional rules that apply to written fundraising solicitations, including solicitation letters and invitations. For example, there are additional disclaimers required by the FEC and IRS that vary depending on the specific situation. Therefore, before sending any written solicitation for contributions, the solicitation must be reviewed by the campaign.